

ORIGINAL

AO 440 (Rev. 8/01) Summons in a Civil Action

JUDGE HOLWELL

UNITED STATES DISTRICT COURT

Southern

District of

New York

E*TRADE Financial Corporation and
E*TRADE Securities LLC

SUMMONS IN A CIVIL ACTION

V.

Marcus J. Hernandez, Sean J. Gaffey and
Banc of America Investment Services, Inc.

CASE NUMBER:

08 CV - 2993

TO: (Name and address of Defendant)

Banc of America Investment Services, Inc.
c/o Registered Agent: CT Corporation
111 Eighth Avenue
New York, NY 10011**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)Douglas P. Lobel
Cooley Godward Kronish LLP
Reston Town Center
One Freedom Square
11951 Freedom Drive
Reston, VA 20190Laura Grossfield Birger
Cooley Godward Kronish LLP
1114 Avenue of the Americas
New York, New York 10036

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

MAR 24 2008

J. MICHAEL McMAHON

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

| RETURN OF SERVICE | | |
|---|----------|--------------|
| Service of the Summons and complaint was made by me ⁽¹⁾ | DATE | |
| NAME OF SERVER (<i>PRINT</i>) | TITLE | |
| <i>Check one box below to indicate appropriate method of service</i> | | |
| <input type="checkbox"/> Served personally upon the defendant. Place where served: <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: <input type="checkbox"/> Returned unexecuted: <input type="checkbox"/> Other (specify): | | |
| STATEMENT OF SERVICE FEES | | |
| TRAVEL | SERVICES | TOTAL \$0.00 |
| DECLARATION OF SERVER | | |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p> | | |

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

E*TRADE FINANCIAL CORPORATION and E*TRADE
SECURITIES LLC,

Index No.: 2008 CV 2993 (Holwell)

-against-

Plaintiffs,

MARCUS J. HERNANDEZ, SEAN J. GAFFEY and BANC OF
AMERICA INVESTMENT SERVICES, INC.,

Defendants.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

DARREN HINDS, being duly sworn, deposes and says:

1. That I am not a party to this action, am over eighteen years of age and reside in the State of New Jersey;
2. That on March 24, 2008, at approximately 3:25 p.m., I serves by hand, by personally delivering to and

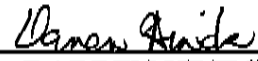
leaving with, a true and correct copy of the foregoing documents: **SUMMONS INA CIVIL ACTION, COMPLAINT FOR PRELIMINARY INJUNCTION RELIEF IN AID OF ARBITRATION, CORPORATE DISCLOSURE STATEMENT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 7.1, CIVIL COVER SHEET**, Individual Practices of Judge Richard J. Holwell and Individual Practices Of Magistrate Judge Theodore H. Katz, all upon **BANC OF AMERICA INVESTMENT SERVICES, INC., C/o CT Corporation System, Inc.**, by Personal Delivery, via Ms. Elena Bou, who identified herself as a "Process Specialist" as well as being authorized, as Agent to accept service on behalf of Banc Of America Investment Services, Inc., C/o CT Corporation System, Inc., which service was effected at the address indicated below:

BANC OF AMERICA INVESTMENT SERVICES, INC.
C/o CT Corporation System, Inc.
111 Eighth Avenue / 13th Floor
New York, New York 10011


3. **Ms. Elena Bou** can best be described as:

Female – White skin – Blonde hair - Brown eyes - Approximately 33 – 43 years of age, 5'7" - 5'11"and 125 - 155 lbs.

Dated: March 24, 2008
New York, New York


DARREN HINDS
License No.: 1194970

Sworn to before me on this the 24th day of March 2008.


NOTARY PUBLIC

HOLLY ROLDAN
Notary Public, State of New York
No. 01R00125752
Qualified In New York County
Commission Expires April 20, 2009

RAPID & RELIABLE ATTORNEY SERVICE, INC.
-A FULL-SERVICE LITIGATION SUPPORT CORPORATION-

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New York, New York 10268
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